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EXAMINER

NEURAUTER, GEORGE C

ART UNIT	PAPER NUMBER
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2143

DATE MAILED: 10/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/748,440	Applicant(s) DAUM ET AL.	
	Examiner George C. Neurauter, Jr.	Art Unit 2143	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5 and 7-29 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-5 and 7-29 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

1. Claims 1-5 and 7-29 are currently pending and have been examined.

Response to Arguments

Applicant's arguments filed 28 July 2004 have been fully considered but they are not persuasive.

The Applicant argues that Koether does not disclose connecting a diagnostic interface to a local area appliance network. The Examiner does not agree. Koether does disclose a diagnostic interface in the kitchen base station which is connected to the local area appliance network (Figure 2, element 155; column 5, line 60-column 6, line 9; column 7, lines 54-62). Koether also discloses a second diagnostic interface that is connected to the local area appliance network (Figure 8, element 810; column 10, line 1, column 11, line 29).

The Applicant also argues that Koether does not disclose performing diagnosis on the appliance over the local area network using service functions in the appliance. The Examiner does not agree. Koehler discloses that each appliance contains a controller that has functionality for performing service on the appliance (column 4, line 23-column 5, line 2, specifically column 4, line 60-column 5, line 2).

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The Applicant also argues that Koether does not disclose a local area appliance network. The Examiner does not agree. The local appliance area network or "cell" disclosed in Koether allows communication between the appliances and a diagnostic interface via the kitchen base station (column 5, line 60-column 6, line 9; column 7, lines 54-62). Koether also discloses that a second diagnostic interface communicates with the appliances via the kitchen base station (column 10, lines 9-27).

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 3-5, 7-11, 22, 24, and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 5 875 430 A to Koether.

Regarding claim 1, Koether discloses a method of performing service diagnostics on appliances, the method comprising:

connecting a diagnostic interface to a local area appliance network (referred to throughout the reference as "cell");
(column 5, lines 3-19)

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accessing an appliance in the local area appliance network and performing service diagnosis of the appliance through said diagnostic interface over the local area appliance network using service functions in the appliance. (column 5, line 60-column 6, line 9)

Regarding claim 3, Koether discloses the method of claim wherein accessing further comprises accessing a dedicated appliance controller in an appliance. (Figure 1, element 140; column 4, line 23-column 5, line 2)

Regarding claim 4, Koether discloses the method of claim 1 wherein the service functions comprise safety functions, parameter functions, and appliance status functions. (column 9, lines 3-60, specifically "Type of malfunction")

Regarding claim 5, Koether discloses the method of claim 1 further comprising implementing said diagnostic interface in a computer. (Figure 2, element 155; column 5, line 60-column 6, line 9; column 7, lines 54-62) (see also Figure 8, element 810; column 10, line 1, column 11, line 29)

Regarding claim 7, Koether discloses the method of claim 1 further comprising connecting to a remote system to retrieve service diagnostic information. (column 5, line 60-column 6, line 9, specifically column 5, line 67-column 6, line 5)

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Regarding claim 8, Koether discloses the method of claim 1 wherein performing service diagnosis includes diagnosing and servicing the appliance based on the appliance diagnosis.

(Figure 7, element 735; column 9, lines 44-60)

Regarding claim 9, Koether discloses the method of claim 8 wherein servicing the appliance comprises patching appliance firmware. (column 5, line 60-column 6, line 9, specifically column 6, line 2)

Regarding claim 10, Koether discloses the method of claim 8 wherein servicing the appliance comprises adjusting appliance parameters. (column 9, lines 44-60, specifically "modify the cooking profiles")

Regarding claim 11, Koether discloses the method of claim 1 further comprising maintaining an external database (Figure 1, element 190) of appliance information based on diagnosis of the appliance. (column 5, lines 50-59; column 9, lines 3-60)

Regarding claim 22, Koether discloses a diagnostic system for provide access to service diagnostics on an appliance, the system comprising:

a diagnostic interface for accepting service destined for the appliance; "base station"; Figure 1, element 150; column 5, line 60-column 6, line 9)

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a local area appliance network ("cell") coupled to the appliance and the diagnostic interface (column 5, lines 3-36); and

a dedicated appliance controller for receiving and executing the diagnostics commands. (Figure 1, element 140; column 4, line 23-column 5, line 2)

Regarding claim 24, Koether discloses the system of claim 22 wherein the diagnostics interface comprises a computer. (Figure 2, element 155; column 7, lines 45-62, specifically lines 59-62)

Regarding claim 26, Koether discloses the system of claim 22 further comprising a communications interface between the local area appliance network and the dedicated appliance controller. (column 5, lines 3-36)

Regarding claim 27, Koether discloses the system of claim 22 further comprising a remote system, the remote system connectable to the diagnostic interface via an Internet connection. (column 5, lines 37-49)

Regarding claim 28, Koether discloses the system of claim 22 wherein the dedicated appliance controller is contained within the appliance. (Figure 1, element 140; column 4, line 23-column 5, line 2)

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3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this

Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 2, 12-21, 23, 25, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5 875 430 A to Koether.

Regarding claim 2, Koether discloses the method of claim 1.

Koether does not disclose wherein the local area appliance network comprises a power line carrier system, however, Koether does disclose that the local area appliance network may be

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implemented via a RF, wired, microwave, satellite, or infrared network (column 5, lines 3-19)

It would have been obvious to one skilled in the art at the time the invention was made to use the power line carrier system because the Applicant has not disclosed that using the limitation undisclosed in Koether provides any sort of an advantage, is used of a particular purpose, or solves a stated problem. One of ordinary skill in the art, furthermore, would have expected Applicant's invention to perform equally well with the power line carrier system as recited in the claim because both the instant application and Koether use the local area appliance network to transmit data between the appliances and a service control center. The data may be transmitted regardless of what type of carrier system is used.

Regarding claim 12, Koether discloses a diagnostic interface ("base station"; Figure 1, element 150) for performing service diagnostics on appliances (column 5, line 60-column 6, line 9), the diagnostic interface comprising:

a display for viewing diagnostic and service information; (column 7, lines 45-62, specifically lines 59-62)

processing circuitry for generating service commands for an appliance. (column 7, lines 45-62, specifically lines 54-57)

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Koether does not expressly disclose a power line carrier communication interface for transmitting the service commands to the appliance and receiving appliance diagnostic results on a power line carrier communication system, however, Koether does disclose an RF communication interface to accomplish these limitations (column 5, lines 3-19). Koether also discloses that wired, microwave, satellite, or infrared communication interfaces may also be used. (column 5, lines 13-19)

Claim 12 is rejected since the motivations regarding the obviousness of claim 2 also apply to claim 12

Regarding claim 13, Koether discloses the diagnostic interface of claim 12 further comprising an appliance bus interface ("wireless means") for communicating with the appliance. (column 5, lines 3-19)

Regarding claim 14, Koether discloses the diagnostic interface of claim 12 further comprising a remote service center interface. (Figure 1, element 175; column 5, lines 37-49)

Regarding claim 15, Koether discloses the diagnostic interface of claim 14 wherein the diagnostic interface gathers appliance statistics to send to a remote service center over the remote service center interface. (column 5, line 60-column 6, line 9)

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Regarding claim 16, Koether discloses the diagnostic interface of claim 12 further comprising a user interface to facilitate service diagnostics. (column 7, lines 45-62, specifically lines 59-62)

Regarding claim 17, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises a refrigerator. (column 4, lines 23-36, specifically lines 32-36)

Regarding claim 18, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises an oven. (column 4, lines 23-36, specifically lines 32-36)

Regarding claim 19, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises a heating system. (column 4, lines 23-36, specifically lines 32-36)

Regarding claim 20, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises a cooling system. (column 4, lines 23-36, specifically lines 32-36)

Regarding claim 21, Koether discloses the diagnostic interface of claim 12 wherein the appliance comprises a lighting system. (column 4, lines 23-36, specifically lines 32-36)

Claim 23 is rejected since claim 23 recites a system that contains substantially the same limitations as claim 2.

Regarding claim 25, Koether discloses the system of claim 22 wherein the diagnostics interface comprises a display device,

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a microprocessor, a PC card interface, and an appliance bus interface. (column 10, lines 1-22)

Koether does not disclose wherein the diagnostic interface comprises a power line modem, however, Koether does disclose that the connection to the local area appliance network by the diagnostics interface may be implemented via a RF, wired, microwave, satellite, or infrared network (column 5, lines 3-19)

Claim 25 is rejected since the motivations regarding the obviousness of claim 2 also apply to claim 25.

Regarding claim 29, Koether discloses the system of claim 22.

Koether does not expressly disclose wherein the diagnostic interface comprises a power line carrier modem which allows the diagnostic interface to communicate with an appliance via a power line carrier system, however, Koether does disclose that the local area appliance network may be implemented via a RF, wired, microwave, satellite, or infrared network (column 5, lines 3-19)

Claim 29 is rejected since the motivations regarding the obviousness of claim 2 also apply to claim 29.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS**

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ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George C. Neurauter, Jr. whose telephone number is 703-305-4565. The examiner can normally be reached on Thursday 1-2pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 703-308-5221. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

gcn

Will C. Vaughn
Primary Examiner
Art 2143
William C. Vaughn, Jr.